

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION**

STEVEN M. WILLIAMS,

Plaintiff,

v.

Case No. 2:21-cv-00436

BOB BARKER COMPANY, INC., et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

Pending before the court is a Motion to Strike Amended Complaint filed by Defendants Cavendish, Murphy, and Perkins (hereinafter “the Correctional Defendants”) (ECF No. 40) and Plaintiff’s Motion to Amend Defendant’s Name in Amended Complaint (ECF No. 45).<sup>1</sup> The undersigned will address each motion in turn.

**A. Motion to Strike Amended Complaint.**

On June 2, 2022, the undersigned submitted a Proposed Findings and Recommendation (“PF&R”) recommending dismissal of all of the claims against the Correctional Defendants and the claims under 42 U.S.C. § 1983 against Defendant Bob Barker Company, Inc. (“BBCI”). (ECF No. 35). That same date, the undersigned entered an Order and Notice granting Plaintiff leave to amend his complaint only with respect to his state law claims against BBCI arising out of his alleged injury by a defective toothbrush. (ECF No. 36).

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<sup>1</sup> Defendant Bob Barker Company, Inc.’s pending Motion to Dismiss Amended Complaint (ECF No. 42) will be separately addressed.

On June 17, 2022, Plaintiff filed objections to the PF&R (ECF No. 37), and also filed his Amended Complaint (ECF No. 38). In addition to amending his allegations concerning state law claims against BBCI, the Amended Complaint also seemingly restated Plaintiff's § 1983 claims against the Correctional Defendants and BBCI, which prompted the filing of the instant Motion to Strike Complaint (ECF No. 40) filed by the Correctional Defendants asserting that Plaintiff's claims against them were not viable and had been recommended for dismissal. On July 8, 2022, the presiding District Judge overruled Plaintiff's objections, adopted the undersigned's PF&R, and dismissed all claims against the Correctional Defendants and the § 1983 claim(s) against BBCI. (ECF No. 41).

Federal Rule of Civil Procedure 12(f) provides that a court “may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent, or scandalous matter.” Fed. R. Civ. P. 12(f). While generally disfavored, a motion to strike may be granted where challenged allegations have no possible or logical connection to the subject matter of the controversy and may cause some form of significant prejudice to a party. *Waste Mgmt. Holdings, Inc. v. Gilmore*, 252 F.3d 316, 347 (4th Cir. 2001); Wright & Miller, Fed. Prac. & Proc. § 1382. Here, because the claims against the Correctional Defendants have been dismissed and nothing in the Amended Complaint alters the reasoning for such dismissal, Plaintiff's proposed amendments pertaining to the Correctional Defendants are futile and should be stricken from the Amended Complaint as immaterial.

Accordingly, it is hereby **ORDERED** that the Correctional Defendants' Motion to Strike Amended Complaint (ECF No. 41) is **GRANTED**. It is further **ORDERED** that all allegations against Defendants Cavendish, Murphy, and Perkins, as well as any

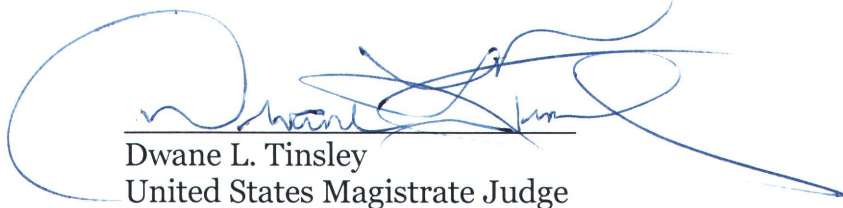
allegations pertaining to any § 1983 claim against BBCI are **STRICKEN** from the Amended Complaint. This matter shall hereinafter proceed only on the state law claims against BBCI contained in the Amended Complaint.

**B. Plaintiff's Motion to Amend Defendant's Name.**

When Plaintiff filed his Amended Complaint, he listed Defendant Bob Barker Company, Inc. as "Bob Barker Inc." in the style of the case. However, he properly referred to this Defendant (now the sole defendant) as "Bob Barker Company Incorporated" or "BBCI" in the body thereof. The undersigned has already directed the Clerk to correct the name of this Defendant on the docket sheet. Accordingly, it is hereby **ORDERED** that Plaintiff's Motion to Amend Defendant's Name (ECF No. 42) is **DENIED AS MOOT**.

The Clerk is directed to mail a copy of this Memorandum Opinion and Order to Plaintiff and to transmit a copy to counsel of record.

ENTER: September 29, 2022



Dwane L. Tinsley  
United States Magistrate Judge